

SENATE JOURNAL

OF THE

IDAHO LEGISLATURE

FIRST REGULAR SESSION
FIFTY-SEVENTH LEGISLATURE

**FIFTIETH LEGISLATIVE DAY
MONDAY, FEBRUARY 24, 2003**

Senate Chamber

President Pro Tempore Geddes called the Senate to order at 10:45 a.m.

Roll call showed all members present except Senators Burtenshaw, Calabretta, Cameron, Goedde, Keough, Noble, Stennett and Sweet, absent and excused.

Prayer was offered by Chaplain Gene Arnold.

The Pledge of Allegiance was led by Nicole Stevenson, Page.

The Senate advanced to the Third Order of Business.

Reading and Correction of the Journal

Senators Burtenshaw, Keough, and Stennett were recorded present at this order of business.

The JUDICIARY AND RULES Committee reports that the Senate Journals of the proceedings of February 20, 2003, and February 21, 2003, were read and approved as corrected.

DARRINGTON, Chairman

There being no objection, the report was adopted and ordered filed in the office of the Secretary of the Senate.

The Senate advanced to the Fourth Order of Business.

Reading of Communications

February 21, 2003

The Honorable James Risch
President of the Senate
Idaho Legislature

Dear Mr. President:

This is to advise you that the Idaho Fish and Game Commission, at its meeting in Moscow on April 24-26, 2002

reappointed Ray Lyon to serve as its representative to the Idaho Outfitters and Guides Licensing Board (IOGLB) subject to Senate approval. The term of reappointment is June 1, 2002, to May 31, 2005.

Ray is a native Idahoan, born and raised in Firth. He attended Utah State University in Logan and graduated with a Bachelor of Science degree in Wildlife Management and Zoology in 1962. While attending college, he was employed by the Department of Fish and Game during the summer months at the Warm River Fish Hatchery.

In June of 1962, Ray was hired by the Department on a full-time basis and he worked on fisheries investigations in Stanley Basin. In September of that same year, he was assigned as a conservation officer. He served in that capacity in the Salmon, Montpelier and Hailey patrol areas until 1970. Ray was promoted to Regional Conservation Officer in Boise, where he served until accepting the position of Enforcement Assistant Chief, Special Operations, at our Headquarters Office in 1990. He retired from that position April 30, 1997.

Ray's wide background of experience and close working relationship with the IOGLB, particularly in the enforcement area, serves him well in this assignment. I am confident that Ray's service on the Board will continue the excellent relationship and communications that exist among IOGLB, the Idaho Fish and Game Commission, and the Department of Fish and Game.

Sincerely,
/s/ Steven M. Huffaker, Secretary
Idaho Fish and Game Commission

The correspondence was ordered filed in the office of the Secretary of the Senate.

The Idaho Fish and Game Commission appointment was referred to the Resources and Environment Committee.

The Senate advanced to the Fifth Order of Business.

Petitions, Resolutions, and Memorials

Senator Calabretta was recorded present at this order of business.

SCR 106

BY STATE AFFAIRS COMMITTEE A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND
REJECTING A CERTAIN RULE OF THE STATE BOARD OF
EDUCATION RELATING TO RULES GOVERNING
ADMINISTRATION AND FEDERALLY FUNDED
PROGRAMS.

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that a certain rule of the State Board of Education relating to rules governing administration and federally funded programs is not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-seventh Idaho Legislature, the Senate and the House of Representatives concurring therein, that IDAPA 08.02.01, Section 100, a final rule of the State Board of Education relating to rules governing administration and federally funded programs, previously adopted as a pending rule under Docket Number 08-0201-9602, be, and the same is hereby rejected and declared null, void and of no force and effect.

SCR 106 was introduced, read at length, and referred to the Judiciary and Rules Committee for printing.

The Senate advanced to the Sixth Order of Business.

Reports of Standing Committees

Senators Cameron and Sweet was recorded present at this order of business.

February 21, 2003

The JUDICIARY AND RULES Committee reports that **S 1108**, as amended, and **S 1053**, as amended, have been correctly engrossed.

DARRINGTON, Chairman

S 1108, as amended, and **S 1053**, as amended, were filed for first reading.

February 22, 2003

The JUDICIARY AND RULES Committee reports that Senate amendments to **S 1108** and **S 1053** have been correctly printed.

DARRINGTON, Chairman

The report was ordered filed in the office of the Secretary of the Senate.

February 21, 2003

The COMMERCE AND HUMAN RESOURCES Committee reports out **S 1050** and **S 1085** with the recommendation that they do pass.

ANDREASON, Chairman

S 1050 and **S 1085** were filed for second reading.

February 21, 2003

The JUDICIARY AND RULES Committee reports out **S 1121**, **S 1122**, **H 115**, and **H 116** with the recommendation that they do pass.

DARRINGTON, Chairman

S 1121, **S 1122**, **H 115**, and **H 116** were filed for second reading.

February 21, 2003

The RESOURCES AND ENVIRONMENT Committee reports out **S 1059** and **S 1100** with the recommendation that they do pass.

NOH, Chairman

S 1059 and **S 1100** were filed for second reading.

February 21, 2003

The HEALTH AND WELFARE Committee reports it has had under consideration the Gubernatorial appointments listed below and the Committee recommends that said appointments be confirmed by the Senate:

Jacki Rolph to the Idaho Commission for the Blind and Visually Impaired, term to expire July 1, 2005;

Donald Chisholm to the Idaho Board of Environmental Quality, term to expire July 1, 2006;

Marguerite McLaughlin to the Idaho Board of Environmental Quality, term to expire July 1, 2006.

BRANDT, Chairman

The Gubernatorial appointments were referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

February 21, 2003

The STATE AFFAIRS Committee reports out **S 1061** with the recommendation that it do pass.

SORENSEN, Chairman

S 1061 was filed for second reading.

February 21, 2003

The STATE AFFAIRS Committee reports out **S 1060** with the recommendation that it be referred to the Fourteenth Order of Business for amendment.

SORENSEN, Chairman

There being no objection, **S 1060** was referred to the Fourteenth Order of Business, General Calendar.

February 24, 2003

The COMMERCE AND HUMAN RESOURCES Committee reports out **S 1066** with the recommendation that it do pass.

ANDREASON, Chairman

S 1066 was filed for second reading.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Ninth Order of Business.

Messages from the House

February 21, 2003

Mr. President:

I transmit herewith **H 162, H 164, H 165, H 166, H 19, H 20, H 21, HCR 23, H 225, H 124, H 208, H 123, H 216, H 247, H 32, H 143, H 177, H 223, H 185, and H 255** which have passed the House.

JUKER, Chief Clerk

H 162, H 164, H 165, H 166, H 19, H 20, H 21, HCR 23, H 225, H 124, H 208, H 123, H 216, H 247, H 32, H 143, H 177, H 223, H 185, and H 255 were filed for first reading.

The Senate advanced to the Tenth Order of Business.

Motions and Resolutions

The President Pro Tempore announced that **SCR 105** was before the Senate for final consideration.

Moved by Senator Ingram, seconded by Senator Stennett, that **SCR 105** be adopted. The question being, "Shall the resolution be adopted?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Bunderson, Burkett, Burtenshaw, Calabretta, Cameron, Compton, Darrington, Davis, Ellis (Malepeai), Gannon, Geddes, Hill, Ingram, Kennedy, Keough, Little, Lodge, Marley, McKenzie, McWilliams, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 32.

NAYS--None.

Absent and excused--Brandt, Goedde, Noble. Total - 3.

Total - 35.

Whereupon the President Pro Tempore declared **SCR 105** adopted, title was approved, and the resolution ordered transmitted to the House.

Senator Goedde was recorded present at this order of business.

The President Pro Tempore announced that **SJM 102** was before the Senate for final consideration.

Moved by Senator Davis, seconded by Senator Stegner, that **SJM 102** be adopted. The question being, "Shall the memorial be adopted?"

Roll call vote was requested by Senators Davis, Stegner, and Werk.

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burtenshaw, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Keough, Little, Lodge, McKenzie, McWilliams, Pearce, Richardson, Sorensen, Stegner, Sweet, Williams. Total - 25.

NAYS--Burkett, Calabretta, Ellis (Malepeai), Kennedy, Marley, Noh, Schroeder, Stennett, Werk. Total - 9.

Absent and excused--Noble. Total - 1.

Total - 35.

Whereupon the President Pro Tempore declared **SJM 102** adopted, title was approved, and the memorial ordered transmitted to the House.

The President Pro Tempore announced that **SJM 103** was before the Senate for final consideration.

Moved by Senator Hill, seconded by Senator Little, that **SJM 103** be adopted. The question being, "Shall the memorial be adopted?"

Roll call vote was requested by Senators Davis, Stegner, and Calabretta.

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burkett, Burtenshaw, Cameron, Compton, Darrington, Davis, Ellis (Malepeai), Gannon, Geddes, Hill, Ingram, Kennedy, Keough, Little, Lodge, Marley, McKenzie, McWilliams, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 33.

NAYS--Calabretta. Total - 1.

Absent and excused--Noble. Total - 1.

Total - 35.

Whereupon the President Pro Tempore declared **SJM 103** adopted, title was approved, and the memorial ordered transmitted to the House.

The Senate advanced to the Eleventh Order of Business.

Introduction, First Reading, and Reference of Bills, House Petitions, Resolutions, and Memorials

S 1127

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO INSURANCE; AMENDING SECTION 41-1833, IDAHO CODE, TO CLARIFY THAT THE SECTION IS NOT AFFECTED BY SECTION 15-6-107, IDAHO CODE; AMENDING SECTION 41-1834, IDAHO CODE, TO CLARIFY THAT THE SECTION IS NOT AFFECTED BY SECTION 15-6-107, IDAHO CODE; AMENDING SECTION 41-1835, IDAHO CODE, TO CLARIFY THAT THE SECTION

IS NOT AFFECTED BY SECTION 15-6-107, IDAHO CODE; AND AMENDING SECTION 41-1836, IDAHO CODE, TO CLARIFY THAT THE SECTION IS NOT AFFECTED BY SECTION 15-6-107, IDAHO CODE, AND TO MAKE TECHNICAL CORRECTIONS.

S 1128

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO QUALIFICATIONS OF A DESIGNATED EXAMINER FOR PURPOSES OF CHILDREN'S MENTAL HEALTH SERVICES; AMENDING SECTION 16-2403, IDAHO CODE, TO FURTHER DEFINE TERMS; AMENDING SECTION 66-317, IDAHO CODE, TO FURTHER DEFINE TERMS AND TO DELETE A CODE REFERENCE; AND AMENDING SECTION 66-329, IDAHO CODE, TO FURTHER GOVERN THE DEFINITION OF A DESIGNATED EXAMINER AND TO MAKE TECHNICAL CORRECTIONS.

S 1129

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO THE TRANSPORTATION SUPPORT PROGRAM FOR SCHOOL DISTRICTS; AMENDING SECTION 33-1006, IDAHO CODE, TO PROVIDE CLARIFYING LANGUAGE, TO PROVIDE A CAP ON ALLOWABLE COSTS UNDER THE PROGRAM, TO PROVIDE FOR REIMBURSEMENT LEVELS BASED UPON ALLOWABLE COST LIMITS, TO PROVIDE THAT THE STATE BOARD OF EDUCATION MAY GRANT A WAIVER BASED UPON APPEAL AND A SCHOOL DISTRICT'S JUSTIFICATION OF EXCESSIVE COSTS AND TO MAKE A TECHNICAL CORRECTION.

S 1130

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO PAY GRADES, MERIT INCREASES AND OTHER COMPENSATION FOR CLASSIFIED STATE EMPLOYEES; AMENDING SECTION 67-5309C, IDAHO CODE, TO PROVIDE FOR GRANTING OF BONUSES TO EMPLOYEES FOR SUGGESTIONS OR RECOMMENDATIONS WHICH RESULTED IN COST SAVINGS OR GREATER EFFICIENCIES TO THE DEPARTMENT OR TO THE STATE OF IDAHO.

S 1131

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO INSURANCE; AMENDING SECTION 41-4003, IDAHO CODE, TO PROVIDE THAT NO REGISTRATION IS REQUIRED FOR ANY SELF-FUNDED PLAN ADMINISTERED BY OR FOR ANY MUNICIPALITY OR OTHER POLITICAL SUBDIVISION OF THE STATE AND TO MAKE A TECHNICAL CORRECTION.

S 1132

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO APPORTIONMENT OF FUNDS FROM THE HIGHWAY DISTRIBUTION ACCOUNT TO THE STATE

CONTROLLER OR LOCAL UNITS OF GOVERNMENT; AMENDING SECTION 40-709, IDAHO CODE, TO PROVIDE THAT A DESIGNEE OF THE STATE CONTROLLER SHALL ASCERTAIN THE SUMS SET FOR THE APPORTIONMENT TO LOCAL GOVERNMENTS WITHIN EACH COUNTY AND SHALL INFORM THE STATE TREASURER OF THE TOTAL AMOUNT TO BE REMITTED TO EACH COUNTY, TO PROVIDE THAT DISTRIBUTIONS OF FUNDS TO OTHER HIGHWAY JURISDICTIONS WITHIN THE COUNTY SHALL BE MADE BY DECISION OF APPOINTED LOCAL REPRESENTATIVES AND TO PROVIDE THAT THE APPORTIONMENT SHALL BE REMITTED TO THE COUNTIES NOT LATER THAN JANUARY 25, APRIL 25, JULY 25 AND OCTOBER 25 OF EACH YEAR.

S 1127, S 1128, S 1129, S 1130, S 1131, and S 1132 were introduced, read the first time at length, and referred to the Judiciary and Rules Committee for printing.

S 1108, as amended, by Local Government and Taxation Committee, was read the first time at length and filed for second reading.

S 1053, as amended, by Transportation Committee, was read the first time at length and filed for second reading.

H 162, H 164, H 165, and H 166, by State Affairs Committee, were introduced, read the first time at length, and referred to the State Affairs Committee.

H 19, H 20, and H 21, by Mr. Speaker, were introduced, read the first time at length, and referred to the Health and Welfare Committee.

HCR 23, by Revenue and Taxation Committee, was read at length and referred to the State Affairs Committee.

H 225, by Revenue and Taxation Committee, was introduced, read the first time at length, and referred to the Local Government and Taxation Committee.

H 124 and H 208, by Resources and Conservation Committee, were introduced, read the first time at length, and referred to the Resources and Environment Committee.

H 123 and H 216, by Judiciary, Rules, and Administration Committee, were introduced, read the first time at length, and referred to the Judiciary and Rules Committee.

H 247, by State Affairs Committee, was introduced, read the first time at length, and referred to the State Affairs Committee.

H 32, by Mr. Speaker, was introduced, read the first time at length, and referred to the Commerce and Human Resources Committee.

H 143 and H 177, by Business Committee, were introduced, read the first time at length, and referred to the Commerce and Human Resources Committee.

H 223, by State Affairs Committee, was introduced, read the first time at length, and referred to the Local Government and Taxation Committee.

H 185, by Education Committee, was introduced, read the first time at length, and referred to the Education Committee.

H 255, by Revenue and Taxation Committee, was introduced, read the first time at length, and referred to the Local Government and Taxation Committee.

The Senate advanced to the Twelfth Order of Business.

Second Reading of Bills

S 1051, by Commerce and Human Resources Committee, was read the second time at length and filed for third reading.

S 1064, S 1078, S 1079, S 1081, S 1082, and S 1038, by Transportation Committee, were read the second time at length and filed for third reading.

The Senate advanced to the Thirteenth Order of Business.

Third Reading of Bills

S 1115 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Burkett arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burkett, Burtenshaw, Calabretta, Cameron, Compton, Darrington, Davis, Ellis (Malepeai), Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Keough, Little, Lodge, Marley, McKenzie, McWilliams, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 34.

NAYS--None.

Absent and excused--Noble. Total - 1.

Total - 35.

Whereupon the President Pro Tempore declared **S 1115** passed, title was approved, and the bill ordered transmitted to the House.

S 1094 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Bunderson arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burkett, Burtenshaw, Calabretta, Cameron, Compton, Darrington, Davis, Ellis (Malepeai), Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Keough, Little, Lodge, Marley, McKenzie, McWilliams, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 34.

NAYS--None.

Absent and excused--Noble. Total - 1.

Total - 35.

Whereupon the President Pro Tempore declared **S 1094** passed, title was approved, and the bill ordered transmitted to the House.

S 1095 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Richardson arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burkett, Burtenshaw, Calabretta, Cameron, Compton, Darrington, Davis, Ellis (Malepeai), Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Keough, Little, Lodge, Marley, McKenzie, McWilliams, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 34.

NAYS--None.

Absent and excused--Noble. Total - 1.

Total - 35.

Whereupon the President Pro Tempore declared **S 1095** passed, title was approved, and the bill ordered transmitted to the House.

S 1096 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Lodge arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burkett, Burtenshaw, Calabretta, Cameron, Compton, Darrington, Davis, Ellis (Malepeai), Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Keough, Little, Lodge, Marley, McKenzie, McWilliams, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 34.

NAYS--None.

Absent and excused--Noble. Total - 1.

Total - 35.

Whereupon the President Pro Tempore declared **S 1096** passed, title was approved, and the bill ordered transmitted to the House.

H 219 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Marley arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burkett, Burtenshaw, Calabretta, Cameron, Compton, Darrington, Davis, Ellis (Malepeai), Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Keough, Little, Lodge, Marley, McKenzie, McWilliams, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 34.

NAYS--None.

Absent and excused--Noble. Total - 1.

Total - 35.

Whereupon the President Pro Tempore declared **H 219** passed, title was approved, and the bill ordered returned to the House.

H 111, as amended, was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Sorensen arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burkett, Burtenshaw, Calabretta, Cameron, Compton, Darrington, Davis, Ellis (Malepeai), Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Keough, Little, Lodge, Marley, McKenzie, McWilliams, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 34.

NAYS--None.

Absent and excused--Noble. Total - 1.

Total - 35.

Whereupon the President Pro Tempore declared **H 111**, as amended, passed, title was approved, and the bill ordered returned to the House.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifteenth Order of Business.

Miscellaneous Business

On motion by Senator Davis, seconded by Senator Stennett, by voice vote the Senate adjourned at 12:05 p.m. until the hour of 10:45 a.m., Tuesday, February 25, 2003.

ROBERT L. GEDDES, President Pro Tempore

Attest: JEANNINE WOOD, Secretary